

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROBERT GENE WILL, II

Petitioner,

v.

**RICK THALER, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,**

Respondent.

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CIVIL ACTION NO. H-07-1000

ORDER

Upon reflection, and given the current legal and factual posture of this case, the Court believes that a certificate of appealability is appropriate as to whether Petitioner, Robert Gene Will II, received a fair trial given the presence of uniformed police officers in the courtroom audience. Specifically, the Court believes that “reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (citations omitted) (internal quotation marks omitted). Thus, the Court **GRANTS** a certificate of appealability on this issue.

IT IS SO ORDERED.

SIGNED at Houston, Texas on this the 19th day of March, 2012.



KEITH P. ELLISON
U.S. DISTRICT COURT JUDGE